

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

EMPLOYERS MUTUAL CASUALTY)
COMPANY,)
Plaintiff,) CIVIL ACTION NO:
V.) 2:05 -CV-01108-MEF
ARNBERG & ALLEN CONSTRUCTION,)
L.L.C.; STEPHEN D. ARNBERG,)
JIM ALLEN, MICHAEL O. LUNSFORD)
and DEBRA O. LUNSFORD.)
Defendants.)

RESPONSE TO SHOW CAUSE ORDER

COMES NOW Plaintiff, Employers Mutual Casualty Company (“EMCC”), and hereby submits that Defendants Arnberg & Allen Construction, LLC and Jim Allen’s 56(f) motion should be denied for the following reasons:

1. Written discovery responses have been provided to Defendants.
2. Documents responsive to Defendant’s discovery have been produced.
3. On November 21, 2006, Defendants took the deposition of EMCC’s expert and his entire file was produced.

WHEREFORE PREMISES CONSIDERED, in light of the above

production of discovery and the deposition of EMCC's expert, Defendants are now in possession of the materials Defendants requested and they should be able to respond to EMCC's motion for summary judgment. EMCC has no objection to the Defendants being afforded a reasonable amount of time in which to respond to EMCC's motion for summary judgment followed by an opportunity for EMCC to submit a reply. Accordingly, EMCC requests that this court deny Defendants' 56(f) motion and deny Defendants' request for attorney fees.

Respectfully submitted,

/s/James A. Kee, Jr. ASB-4314-e68j
/s/Cynthia A. Martin ASB-2044-i49c
Attorneys for Plaintiff Employers
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OF COUNSEL:

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CERTIFICATE OF SERVICE

I do hereby certify that on November 30, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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